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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,859	07/19/2004	Shin Aihara	254787US0PCT	2927
22850 7590 10/11/2007 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER DELCOTTO, GREGORY R	
			ART UNIT	PAPER NUMBER
			1796	
			NOTIFICATION DATE	DELIVERY MODE
			10/11/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/500,859	AIHARA ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-6, 8, and 9 are pending. Claim 7 has been canceled. Applicant's arguments and amendments filed 3/9/07 have been entered.

Claims 1-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/4/06.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action 3/9/07 have been withdrawn:

The rejection of claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn.

The rejection of claim 5 under 35 U.S.C. 102(b) as being anticipated by Holmes-Farley et al (US 6,610,283).

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Harada et al (US 3,920,392), Michel et al (US 6,030,738), or Baur et al (US 5,500,323).

Note that, with respect to instant claim 5, the Examiner asserts that the claim is open to treating any kind of hard surface with a one-component composition.

Harada et al teach a metal corrosion inhibitor consisting of a polysulfone compound obtained by copolymerizing or interpolymerizing sulfur dioxide and at least one 1,6-diene compound. The metal corrosion inhibitor may be added in a corrosion inhibitorily effective amount, preferably at least 1 ppm, to a corrosive medium, with which a metal comes into contact, to inhibit the medium from corroding the metal. See Abstract. Note that, Harada et al exemplify polymers which are the same as recited by the instant claims. See column 7 line 1 to column 8, line 60. Sulfur dioxide is very

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easily copolymerized with at least one other monomer. See column 5, lines 20-35.

Harada et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Michel et al teach inter-polyelectrolyte complexes which are employed as charge control agents and charge improvers in electrophotographic toners and developers. See Abstract. The polyelectrolyte complexes contain a polyanion forming compound and a polycation forming compound, wherein said polycation forming compound may be polysulfone dialkylammonium salts. See claims 1-3. Michel et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Baur et al teach polysulfonyldiallylammonium salts which are used as charge control agents in electrophotographic toners and developers which are employed for copying and reproducing originals and for printing electronically, magnetically or optically stored information or in colorproofing, and as charge control agents in powders and powder coatings. See Abstract. Baur et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Harada et al, Michel et al, or Baur et al anticipate the material limitations of the instant claims.

Claims 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-096049.

'049 teaches a corrosion inhibitor composition containing a corrosion depressant compound, which is the same as the polymer as recited by the instant claims, in

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combination with a surfactant and solvent. See pages 2 and 3. '049 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '049 anticipate the material limitations of the instant claims.

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeschke et al (US 6,251,849) or Aubay et al (6,593,288), both in view of Harada et al (US 3,920,392).

Jeschke et al teach the use of water-based cleaners for hard surfaces containing from 0.01 to 10% by weight of cationic polymers containing monomer units having the same formula as recited by the instant claims, and 0.1 to 50% by weight of one or more nonionic surfactants. See column 2, line 30 to column 3, line 15. Additionally, the cleaning compositions may contain auxiliaries such as solvents in ethanol, isopropanol, glycol ether, etc. See column 4, lines 50-69. In one embodiment, the cleaner is formulated as a ready-to-use solution which may be used as a spray cleaner. The cleaners are suitable as both multipurpose cleaners and as manual dishwashing detergents. The cleaners are particularly suitable for cleaning hard surfaces such as enamel, glass, china, linoleum, ceramic tiles, marble, metals, etc. See column 5, lines 55-69.

Specifically, Jeschke et al teach a bath cleaning composition in the mildly acidic range containing 3.85% of a C8-C10 alkyl polyglucoside, 1% of a C12-C14 fatty alcohol ether having 6 moles of EO, 1% sodium hydroxide, 1% ethanol, 0.3% of various

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polymers which contain the same monomers as recited by the instant claims, 0.2% preservative, 0.9% perfume oil and the balance water.

'288 teaches the use of a water-soluble or water-dispersible copolymer comprising monomers including dimethyldiallylammonium chloride, at least one hydrophilic monomer, and optionally at least one hydrophilic monomer compound containing ethylenic unsaturation and of neutral charge, on hard surfaces to give a hard surface hydrophilic properties. See Abstract. The copolymer preferably has a molecular weight of at least 1000, advantageously of at least 10,000. See column 3, lines 35-45. The copolymers are used in compositions for cleaning ceramics such as bathrooms, sinks, shower walls, toilet pans, etc. See column 5, lines 40-55. The polymers containing DADMAC have hydrophilic properties to give the hard surface long-lasting hydrophilic properties so as to avoid the subsequent presence of marks due in particular to the drying of droplets of water deposited on said surface. See column 1, lines 5-15. Additionally, the compositions contain surfactants. See column 11, lines 50-65. Specifically, '288 teaches a detergent formulation for cleaning hard surfaces such as tiles, sinks, baths, etc. containing 24% sodium sulfonate, 5% ethoxylated C12 fatty alcohol, 4% ethanol, polymer, and water. Note that, the Examiner asserts that the teachings of '288 suggest compositions having the same antifouling properties as recited by the instant claims because '288 suggest compositions containing the same components in the same proportions as recited by the instant claims.

Jeschke et al or Aubay et al do not teach the specific polymer as recited by the instant claims or a method of treating a surface using a composition containing the

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specific cationic polymer, surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Harada et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art to use a sulfone monomer in the polymer compounds taught by Jeschke et al or Aubay et al, with a reasonable expectation of success, because Harada et al teach that sulfur dioxide is a very easily copolymerizable monomer which provides corrosion inhibiting properties and further, Jeschke et al or Aubay et al teach that DADMAC may be copolymerized with various monomers in general.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to treat surfaces using a composition containing the specific cationic polymer, surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success, because the broad teachings of Jeschke et al or Aubay et al, both in combination Harada et al suggest a method of treating a surface using a composition containing the specific cationic polymer, surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeschke et al (US 6,251,849) or Aubay et al (6,593,288), both in view of Harada et al (US 3,920,392) as applied to claims 5 and 8 above, and further in view of Pucci et al (US 5,872,088) or Aubay et al (US 6,703,358).

Jeschke et al, Aubay et al, and Harada et al are relied upon as set forth above.

However, Jeschke et al, Aubay et al, and Harada et al do not teach a method of antifouling and washing hard surfaces of toilet bowls using a composition containing the specific cationic polymer, surfactant, and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Aubay et al teach a cleaning composition for hard surfaces including ceramic, tile or glass-type comprising at least one surfactant and a water soluble or water-dispersible copolymer. See Abstract and column 1, lines 1-5. The copolymer according to the invention advantageously has a weight-average molecular mass of at least 1000 up to 10,000,000. See column 3, lines 1-10. The composition may also be used for cleaning toilet bowls and includes from 0.05% to 5% by weight of a water-soluble or water-dispersible copolymer, from 0.1 to 40% by weight of an inorganic acid cleaning agent, from 0.5 to 10% by weight of a surfactant, from 0.1 to 3% by weight of a thickener, and additives. See claim 6.

Pucci et al teach hard surface cleaning compositions which are viscous but at the same time easy to rinse. Such compositions are formulated by using a linear C6-C16 alcohol and/or linear alkoxyated C6-C16 alcohol, a hydrotropic solvent, and an anionic surfactant. See Abstract. An advantage of the viscous compositions is that they may be used in a wide range of applications in bathrooms, kitchens, floors, and especially on any vertical surface like walls, toilet bowls, and the like. See column 2, lines 5-15. The compositions of the present invention comprise from 0.1% to 20% by weight of the total compositions of said linear alcohol. See column 3, lines 30-40.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the composition as taught by Jeschke et al or Aubay et al, both in combination with Harada et al to clean toilet bowls, with a reasonable expectation of success, because Aubay et al or Pucci et al teach the use of a similar composition for cleaning hard surfaces in general including toilet bowls, ceramic, etc., and further, Jeschke et al or Aubay et al ('288) teach the cleaning of hard surfaces in general which would encompass toilet bowls.

Response to Arguments

With respect to Harada et al, Michel et al, Baur et al, JP '049, Jeschke et al, and Aubay et al, Applicant states that none of the cited prior art of record discloses or suggests the claimed method of treating a surface with an antifouling composition as recited by the instant claims. In response, note that, the instant claims simply require "treating" (i.e. contacting) a hard surface with a composition which only requires the presence of a polymer containing $\text{--SO}_2\text{--}$ units. The Examiner asserts that the instant claims have been given their broadest reasonable interpretation and that the hard surfaces "treated" as taught in Harada et al, Michel et al, Baur et al, JP '049, Jeschke et al, and Aubay et al would fall within the broad scope of "hard surface" as recited by the instant claims. For example, the treated metal surfaces as taught by Harada et al and '049 would fall under the scope of "hard surface" as recited by the instant claims. While Applicant states that hard surfaces generally treated include those found in a house as described in the instant specification on page 1, the Examiner asserts that these are surface are merely exemplary and are not read into the claims as a patentable

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limitation. Note that, though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment. Superguide Corp. v DirecTV Enterprises, Inc., 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004). See MPEP 2111.01. Thus, the Examiner asserts that the broad teachings of Harada et al, Michel et al, Baur et al, JP '049, Jeschke et al, and Aubay et al, and combinations of these references suggest a method of treating a hard surface with a polymer composition as recited by the instant claims.

Additionally, Applicant states that comparative data in the instant specification and a Declaration filed under 37 CFR 1.132 have been submitted which show that improved antifouling effect from using an $-SO_2-$ group containing polymer in the claimed method, a result which is simply not suggested by the cited references relied upon by the Examiner. In response, first note that, a rejection of the instant claims under 35 USC 102 for anticipation has been made, as set forth above, and secondary considerations such as evidence of unexpected and superior results are not sufficient to overcome a rejection under 35 USC 102. Alternatively, even if the prior art was not sufficient to rejection the claims under 35 USC 102, which the Examiner is clearly not conceding, the Examiner asserts that the data would not be sufficient to overcome the prior art rejections of record. Note that, the data presented in the specification and in the Declaration filed under 37 CFR 1.132 is not commensurate in scope with claimed

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invention. The instant claims recite a broad category of polymer having any molecular weight containing many types of monomer unit A in combination with a monomer unit – SO₂-, wherein the polymer is present in any amount while the data presented in the specification and Declaration provide data with respect to several specific polymers at several specific weight percentages which is clearly not commensurate in scope with the claimed invention.

Also, the data is insufficient because in making the comparisons, many of the compositions are different such that it is unclear if the unexpected and superior results are due to the claimed polymer or the addition or absence of other non-required components. For example, in the data presented in Table 2 of the specification, Comparative products 3-1 and 3-2 do not contain any surfactant while Examples 3-1 to 3-8 all contain surfactants so it is not clear if the alleged showing of unexpected results is due to the polymer or some other component in the composition. Finally, the Examiner asserts that the data in the Declaration does not make a comparison between compositions falling within the scope of the claimed invention and compositions falling outside the scope of the instant claims, but merely shows the properties of compositions prepared according to the claimed invention which is not persuasive.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
September 30, 2007